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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,588	12/18/2001	Andrew F. Fireman	2001-209	2506

23581 7590 08/26/2004

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EXAMINER

CAMPBELL, KELLY E

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/024,588	Applicant(s) FIREMAN ET AL.	
	Examiner Kelly E Campbell	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

The amendment filed 5/10/04 is acknowledged.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by McKelvey (US 3,199,887).

McKelvey teaches a uniformly molded sled for use by a rider to glide upon a snow surface including a front portion (10) and a rear portion (11) the front portion (10) including a median portion (12) and first and second foot rudder cavities formed by the sidewall (15) and front sections (10), see Column 2, lines 43-50 and Figures 1 and 4;

the foot sections (silent) for steering the sled, see Column 3, lines 17-21;

each foot section (silent) including a bottom wall (23a) having an upper surface (silent) adapted to receive the riders foot and a lower surface adapted to slide upon the snow, see Figure 4 and Column 34, lines 32-41;

the rear portion (11) including a seat portion (silent), see Column 3, lines 43-47;

and having a bottom wall (23b) having an upper surface (silent) adapted to receive the rider and a lower surface adapted to slide upon the snow, see Figure 5;

the lower surface of the first and second foot portions (23a) and the lower surface of the seating portion (23b) being in substantially exclusive contact with the snow surface thereby providing a fast sled;; wherein the first and second foot rudder cavities (10,15) are integrally connected to the median portion (12) to be flexible thereto, see Column 2, lines 23-27, 43-50 and Column 3, lines 17-21.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKelvey (US 3,199,887) as applied to claim 1 above, and further in view of Skillius (US D238,564).

McKelvey teaches all aspects of the claimed invention as discussed above for claim 1, except the sled including a plurality of first and second ribs extending from the median portion to the foot rudder cavities of the sled.

Skillius teaches a sled having a plurality of first ribs extending substantially from the median portion of the sled to a foot support portion and a plurality of second ribs extending the median portion of the sled to a second foot support portion.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the sled having foot rudder cavities and a median portion as taught by McKelvey such that the sled includes ribs extending towards the foot rudder cavity as taught by Skillius in order to provide increased flexibility and traction for better control.

With regards to claim 3, "...wherein the first and second ribs are of one half-cylindrical shape"; it would have been an obvious matter of design choice to modify the shape of the ribs of the sled to be of half, cylindrical shape since it appears that the invention would perform equally well with ribs of a less cylindrical shape.

Response to Arguments

Applicant's arguments, see pages 2-3, filed 05/10/04, with respect to claim 1 have been fully considered. However, upon reconsideration of amended claim 1, the examiner has determined that the McKelvey (3,199,887) reference provides all aspects of claim 1. The first and second foot sections of the sled, formed by the front ground engaging section (10), the arched intermediate section (12) and the side walls (15), taught by McKelvey, are engaged by the user's feet and allow for steering of the sled by the user's feet and are thus considered to be "foot rudder cavities", per Column 3, lines

17-21. A cavity is defined as "a hollowed out space" and rudder is defined as "guiding force or strategy" by Merriam-Webster's Collegiate dictionary, 10th edition © 1993. The foot receiving "cavity" defined by the front ground engaging section (10), the arched intermediate section (12) and the side walls (15) are by definition, "foot rudder cavities".

With regards to applicant's argument that the first (or left) and second (or right) foot rudder cavities are not flexible relative to the median portion (12), the Examiner would like to draw the applicant's attention to Column 1, lines 69-72, the brief description of Figure 1, "...Fig. 1 is a front perspective of a toboggan sled constructed according to the present invention, the flexed position of the sled for steering to the left being shown in broken lines...". Further, Figure 1 **clearly** shows the sled in a flexed position relative to the median portion (12). The applicant's has not recited the foot rudder cavities being flexible in a specific direction to the median portion, or flexible at a specific angle. The applicant has not recited in the claims, a "...median portion flexing between where the feet should be placed..." as argued in the remarks on page 3. The median portion identified by the examiner is the longitudinal median portion (12) disposed at midpoint of the sled length. The applicant's arguments are, again, more specific than the recited claim language.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly E Campbell whose telephone number is (703) 605-4264. The examiner can normally be reached on 9:00-5:30 Monday-Friday.

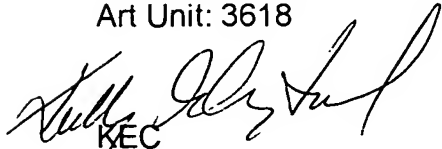
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (703) 305-0168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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